

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
MAY 2, 2023**

ITEM 5

SUBJECT

UPDATE ON STATUS OF THE UNDERGROUND STORAGE TANK (UST) CLEANUP FUND, AND OPPORTUNITY FOR PUBLIC COMMENT ON ALLOCATION OF CERTAIN FUNDS GENERATED FROM THE PETROLEUM STORAGE FEE, PURSUANT TO HEALTH AND SAFETY CODE SECTION 25299.43, FOR FISCAL YEAR 2024-2025.

DISCUSSION

The State Water Resources Control Board (State Water Board) adopted resolutions directing staff to implement actions to improve the administration of the UST Cleanup Program and the UST Cleanup Fund. One of these actions was for the Division of Financial Assistance to regularly report to the State Water Board on the progress and status of improvement actions. This update includes the opportunity for public comment on allocation of certain funds generated from the petroleum storage fee, required by Health and Safety Code section 25299.43, subdivision (g)(3).

The State Water Board hears public comments as part of the process for determining the allocation of \$0.003 per gallon from the existing \$0.02 per gallon petroleum storage fee among three specific accounts associated with prevention or cleanup of petroleum contamination and with investigation and remediation of surface or groundwater contamination. Following public comment, no action will be taken by the State Water Board, although the Board members may provide input to staff.

Health and Safety Code section 25299.43, subdivision (g)(2) requires \$0.003 (3 mills) of the existing \$0.02 per gallon petroleum storage fee be allocated among the following accounts set forth in section 25299.51, subdivision (o):

- (1) The Petroleum UST Financing Account for Replacing, Removing or Upgrading USTs (RUST) grants and loans to small business UST owners and operators for compliance with UST regulatory requirements (including complying with the phase-out of single-walled USTs);
- (2) The School District Account within the UST Cleanup Fund for reimbursing costs associated with cleaning up contamination from leaking petroleum USTs at school district properties; and
- (3) The Site Cleanup Subaccount for Site Cleanup Subaccount Program (SCAP) grants and contracts to fund sites undergoing or in need of investigation and remediation of harm or threat of harm caused by existing or threatened surface or groundwater contamination.

The budget allocation for the fiscal years (FYs) prior to FY 2022-2023 had been an even split between the Petroleum UST Financing Account and the Site Cleanup Subaccount, with none of the funds being allocated to the School District Account. In FY 2021-2022 a one-time allocation of \$2 million was provided to the School District Account. In addition, the split of the remainder of the funds changed with 85 percent (85%) being allocated to the Site Cleanup Subaccount, and 15 percent (15%) to the Petroleum UST Financing Account. In the Governor's proposed budget for FY 2023-2024 the split remains eighty-five percent (85%) to the Site Cleanup Subaccount and fifteen percent (15%) to the Petroleum UST Financing Account. The amounts of the allocation have been based on estimates that the three mills will generate \$39.5 million annually, although actual and projected revenues have been higher (~ \$51 million per year). For FY 2024-2025, State Water Board staff recommends that the 3 mills be allocated eighty-five percent (85%) to the Site Cleanup Subaccount and fifteen percent (15%) to the Petroleum UST Financing Account. This will allow the State Water Board to meet the increasing needs for the SCAP, without negatively impacting the State Water Board's ability to fund eligible small business RUST grant and loan applications from the Petroleum UST Financing Account. The allocation will be determined in accordance with the State Budget process. The State Budget process for FY 2024-2025 will begin with publication of the Governor's Budget in January 2024 and a May 2024 Budget Revision, and adoption of the State Budget some time thereafter.

Annual expenditures for the Petroleum UST Financing Account are increasing as a result of State Water Board staff outreach, changes in regulations, and the requirement that all single-walled USTs, including single-walled piping, must be permanently closed in accordance with Health and Safety Code section 25292.05 by December 31, 2025. Since 2015, the RUST Program has funded 404 grants and loans valued at approximately \$72.3 million out of \$106.6 million allocated. Staff expects to fund an additional 32 grants and loans, valued at \$13.2 million, in FY 2022-2023, leaving an estimated account balance of approximately \$35 million. The Petroleum UST Financing Account is projected to continue to have a healthy cash flow. Therefore, reducing the amount of funding allocated to the Petroleum UST Financing Account as recommended will not negatively impact the State Water Board's ability to fund eligible RUST grant and loan applications.

Annual expenditures for the Site Cleanup Subaccount will likely increase as more cleanup projects are identified. The State Water Board has funded 94 projects, valued at approximately \$115 million, since 2015, and expects to fund an additional 22 new projects or amendments in FY 2023-2024 for approximately \$50 million. The total appropriation (since 2015) of \$114.6 million has been committed. SCAP staff has been made aware of additional sites requiring investigation and remediation; however, there are not sufficient funds in the Site Cleanup Subaccount for these projects. The funding allocation and authority for FY 2023-2024 proposed by staff would result in a total of approximately \$43 million being allocated to the Site Cleanup Subaccount to meet these unmet demands.

As required by statute, the State Water Board is providing this opportunity for comment regarding the State Water Board's recommendation for the allocation of the funds

collected from the three mills (\$0.003 / gallon) set aside of the petroleum storage fee. Following public comment, no action will be taken by the State Water Board, although the Board members may provide comments to staff.

POLICY ISSUE

How should the State Water Board recommend that specified funds collected pursuant to section 25299.43, subdivision (g)(2) of the Health and Safety Code be allocated among the purposes provided in section 25299.51, subdivision (o)?

FISCAL IMPACT

No additional fiscal impact to currently budgeted program resources.

REGIONAL BOARD IMPACT

Yes. Regional Water Quality Control Board staff provide management and/or regulatory oversight for UST cleanup sites and most of the projects funded by the Site Cleanup Subaccount.

HUMAN RIGHT TO WATER ANALYSIS

This budget allocation recommendation will support California's Human Right to Water law and help ensure that communities relying on water containing human-caused groundwater contamination have a reliable drinking water supply. The grants and loans that will be awarded with these funds will address environmental justice issues and disadvantaged communities by providing financial assistance to clean up sites for which responsible parties do not have the ability to pay. These funds will enable cleanup of soil and groundwater pollution that causes or threatens harm to human, health, safety, and the environment.

STAFF RECOMMENDATION

Accept public comment on recommended allocation of the three mills. State Water Board staff recommend that the specified revenues for FY 2024-2025 be allocated eighty-five percent (85%) to the Site Cleanup Subaccount and fifteen percent (15%) to the Petroleum UST Financing Account.